

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

REBECCA WHITEHURST, §
Plaintiff, §

V. §

INTERNATIONAL FEDERATION §
OF GYMNASTICS, USA §
GYMNASTICS, UNITED STATES §
OLYMPIC COMMITTEE, §
LAWRENCE GERARD NASSAR and §
CYPRESS ACADEMY, INC. D/B/A §
CYPRESS ACADEMY §

Defendants. §

CIVIL ACTION NO. _____

NOTICE OF REMOVAL

Pursuant to 36 U.S.C. § 220505(b)(9), Defendant United States Olympic Committee (“USOC”) hereby gives notice of the timely removal of this matter from the District Court of Harris County to the United States District Court for the Southern District of Texas.

INTRODUCTION

1.

On April 18, 2018, Plaintiff Rebecca Whitehurst (“Whitehurst”) filed a Complaint in the 157th Judicial District of Harris County, Texas against USOC and several other named Defendants, including USA Gymnastics (“USAG”). A true and correct copy of the Original Petition, assigned Cause No. 201826205, is attached as **Exhibit 1**.

2.

Plaintiff served USOC on May 10, 2018 via personal service. **Exhibit 2**.

3.

Plaintiff alleges that USOC is liable under Texas law for harms caused by Dr. Larry Nassar, who has been convicted for sexually molesting minors while he was serving as a doctor for USAG. According to the Complaint, USOC failed to adequately train and supervise Nassar (who was not a USOC employee), failed to “properly investigate, address, and remedy complaints regarding Defendant Nassar’s conduct,” and failed to inform Plaintiff and the public of the allegations and concerns regarding Nassar’s conduct. *See, e.g.*, Pet. at 8. Plaintiff asserts various tort claims based on the same purported failure by USOC to protect Plaintiff.

4.

USOC removes this action under 36 U.S.C. § 220505(b)(9). As set forth more fully below, the Complaint’s allegations against USOC relate solely to USOC’s alleged responsibility to supervise national governing bodies, such as USAG, and their staff pursuant to the Ted Stevens Amateur Sports Act (“ASA”), 36 U.S.C. §§ 220501, *et seq.*

I. THIS CASE IS REMOVABLE UNDER THE TED STEVENS AMATEUR SPORTS ACT.

5.

The USOC is a federally chartered organization that operates pursuant to the ASA. *See San Francisco Arts & Athletics, Inc. v. USOC*, 483 U.S. 522, 543 (1987). The ASA provides that USOC may unilaterally remove to federal court any civil action relating to the USOC’s responsibilities. *See Exum v. USOC*, 2005 WL 3021953, *1 (D. Colo. 2005) (removing state law claims for breach of contract, fraud, misrepresentation, promissory estoppel, and wrongful termination brought by a contractor). Specifically, the ASA provides that “any civil action brought in a State court against the [USOC] and solely relating to the [USOC’s] responsibilities

under this Act shall be removed, at the request of the [USOC], to the district court of the United States in the district in which the action was brought, and such district court shall have original jurisdiction over the action without regard to the amount in controversy or citizenship of the parties involved.” 36 U.S.C. § 220505(b)(9).

6.

Section 220503 provides that USOC was chartered to “encourage and provide assistance to amateur athletic activities for women,” “encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety,” and “to provide swift resolution of conflicts and disputes involving amateur athletes, national governing bodies [i.e. USAG], and amateur sports organizations.” Plaintiff’s claims — that USOC failed to properly supervise Nassar, failed to properly investigate complaints against Nassar, and failed to disseminate information about Nassar’s conduct — all relate to these responsibilities.

II. ALL PROCEDURAL REQUIREMENTS OF REMOVAL ARE SATISFIED.

7.

This Notice of Removal is timely filed under 28 U.S.C. § 1446(b)(2) and (3); it is filed within thirty (30) days of service of the Complaint on USOC, which occurred on May 10, 2018. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 334, 347-48 (1999) (holding that the 30-day removal period begins to run upon formal service of the complaint).

8.

True and correct copies of the process, pleadings, orders, and other documents served on USOC are attached as **Exhibit 1** (a. Original Petition and b. Original Answer of USAG), and **Exhibit 2** (Executed Process). Additionally, attached as **Exhibit 3** is a Rule 11 Agreement that was entered into prior to removal, which extends the time for USOC to answer or otherwise

respond to the Complaint to the later of (1) August 3, 2018, or (2) if a motion to remand is filed, 30 days after a ruling on the motion to remand. No substantive motions are currently pending in the state court action.

9.

The state court has not issued any orders in this matter. The docket sheet from the state court is attached hereto as **Exhibit 4**. An index of matters being filed is attached as **Exhibit 5**. A list of all counsel of record is attached as **Exhibit 6**.

10.

Written notice of the filing of this Notice of Removal shall be promptly served on all parties who have appeared herein, and a copy of this Notice shall promptly be filed with the clerk in the state court action pursuant to 28 U.S.C. § 1446(d).

11.

USOC reserves all defenses, including but not limited to those under Federal Rule of Civil Procedure 12(b), and does not waive said defenses by the filing of this Notice.

WHEREFORE, USOC gives notice that the above action now pending against it in the District Court of Harris County, Case No. 20186205, is hereby removed from the above-referenced state court to the United States District Court for the Southern District of Texas.

Dated: June 5, 2018

Respectfully submitted,

JONES WALKER LLP

By: /s/ Lauren J. Harrison
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CERTIFICATE OF SERVICE

I certify that a copy of the above and foregoing has been served upon all counsel of record by placing a copy in the United States Mail, properly addressed and postage prepaid and/or electronic transmission on this 5th day of June, 2018.

/s/ Lauren J. Harrison

LAUREN J. HARRISON